

REMARKS

Applicants respond to the Office Action mailed June 10, 2003, for which a three month period of response was given. Claims 1-8 and 10-21 are pending in the application. Claims 1, 6, and 11 have been amended. Claims 20-21 have been added with this amendment. The amendments and new claims are believed to be supported within the specification and claims as originally filed. Claims 1 and 11 have been amended as to their Markush language. The amendment to claim 6 is believed to be supported at page 10, lines 5-22. Support for new claims 20-21 is believed to be found on page 8, lines 12-14 and in Examples C-1 and C-2.

Applicants acknowledge the withdraw of all previous rejections.

The Examiner has rejected claims 1-8 and 10-19 under the judicially created doctrine of double patenting over claims 1-18 of U.S. Patent 6,436,496. Should all other rejections be withdrawn and the claims considered allowable, Applicants are prepared to file a terminal disclaimer to obviate the double patenting rejection.

Claims 1-8 and 10-19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Williams (U.S. Patent 6,132,877) in view of Dohrer (U.S. Patent 5,208,096). The Examiner contends that Williams teaches a halogen-free multilayered heat shrink film comprising a core layer and at least one skin layer in which the skin layer is printable. The Examiner contends that Williams teaches a core layer which is a blend of a copolymer of polypropylene and butene and a homopolymers of propylene. The Examiner, also contends that Williams teaches that the skin layers are formed from the same material as the claimed core layer and that a polyethylene skin layer and a printable skin layer are disclosed. The Examiner admits that Williams does not teach an additive to the print layer, such as an ethylene vinyl acetate added to a printable layer of polyolefin. The Examiner has cited Dohrer as a secondary reference for its teaching related to the addition of ethylene vinyl acetate to polyolefins that do not inherently possess cling properties. The Examiner contends that a skilled person would recognize the benefits of cling properties for a film used to encapsulate an article, because the film can connect and continue to encapsulate the article with the need of adhesive. Further, the Examiner has indicated it would be easier to remove a film having cling properties

from an article than a film adhesively bonded to the article. The Examiner then concludes that would be obvious to add the ethylene vinyl acetate of Dohrer to the printable skin layer of Williams in order to provide the film with cling properties to make it better suited for encapsulating an article.

Williams relates to a uniaxially heat-shrinkable, biaxially oriented, multilayer film having a polypropylene-containing-core layer and at least one high density polyethylene containing skin layer adjacent said core layer. Williams teaches that the core layer must provide sufficient operability so that the film after biaxial orientation exhibits crystallinity which is low enough to permit the secondary orientation of the film. Williams teaches that the core layer material can be either a single polypropylene homopolymer material that is sufficiently atactic or a polyolefin other than isotactic polypropylene with a modifier. Williams teaches that the modifiers can be atactic polypropylene, syndiotactic polypropylene, ethylene-propylene copolymer, propylene-butene-1 copolymer, ethylene-propylene-butene-1 terpolymer, polybutene-1, or linear low density polyethylene. Williams teaches that the skin layer may be corona treated to improve the receptivity of the layer to printing inks, coatings, adhesive anchorage, and/or its suitability for such subsequent manufacturing operations as lamination.

As admitted by the Examiner, Williams does not teach or suggest the addition of an ethylene vinyl acetate copolymer, ethylene methyl acrylate and acrylonitrile butadiene rubber to a print layer.

Dohrer has been cited as a secondary reference. Dohrer relates to a single-sided cling stretch wrap film. Dohrer teaches a high tensile strength A/B/C film structure, wherein the A surface exhibits cling properties, the B layer is primarily responsible for the high tensile strength of the film structure and the C layer is substantially cling free. Dohrer teaches that

Resins not inherently possessing cling properties can nevertheless be used in this invention by incorporating with the resin a cling additive. (Column, 3, lines 65-68)

As is well recognized, for references to be combined there must be a teaching or suggestion within the references that provides the motivation or incentive to a skilled person to combine the references. In the present situation, neither reference provides motivation to include an additive to a print polyolefin skin layer as is claimed by Applicants. Williams is directed to an oriented film that is heat shrinkable. Williams teaches that skin layers on the film may be corona treated to make them more receptive to printing inks. Dohrer is directed to cling wrap films. Dohrer teaches that additives may be included into film not inherently possessing cling properties. Dohrer does not teach any printing of the cling wrap or that the addition of a cling improving additive may provide a print layer with a polyolefin. Dohrer only teaches that the cling properties of a film may be improved with this additive. Dohrer contains no teaching or suggestion that the inclusion of the cling improving additive would be useful in making a print layer. Williams teaches corona treatment to improve printing. Williams provides no motivation to look to the cling wrap of Dohrer to make a print skin. The references are directed to films used for different purposes. Because Williams teaches treating the surface of the film to increase printing ink receptivity, Williams teaches away from adding a material to the print layer. There is no teaching or suggestion within the references that provides the motivation to a skilled person to combine the references as suggested by the Examiner. Therefore, Applicant submit that the rejection of claims 1-8 and 10-19 is improper and request withdrawal.

Applicants have submitted new claims 20 and 21 which define the amount of the copolymer of ethylene or propylene and the alpha olefin (Claim 20) and in a blend (Claim 21). Applicant submit that these claims are also patentable for the reasons given above. Additionally, Applicants submit that Williams does not teach or suggest the level of copolymer as claimed. Williams teaches that the core layer is a single polypropylene homopolymer material which is sufficiently atactic or a polyolefin other than isotactic polypropylene blended with a modifier. The modifier includes atactic polypropylene, syndiotactic polypropylene, ethylene-propylene copolymer, propylene-butene-1 copolymer, ethylene-propylene-butene-1 terpolymer, polybutene-1, and linear low density polyethylene. The ethylene propylene copolymer is used together with a

polypropylene, preferably an isotactic polypropylene. When used, the ethylene propylene copolymer is present in an amount from 2% to 10% (Column 4, line 25) or 0% to 10% (Column 4, line 38). Williams does not teach a core layer having from about 45% to about 100% by weight copolymer of ethylene or propylene and an alpha olefin containing from about 3 to about 12 carbon atoms (Claim 20). Williams also does not teach or suggest a core layer that is a blend from about 45% to about 95% by weight of a copolymer of ethylene or propylene with an alpha olefin containing from about 3 to about 12 carbon atoms and from about 5% to about 55% by weight of a homopolymer of an olefin (claim 21). Therefore, Applicants submit that Williams in view of Dohrer does not render claims 20 and 21 obvious. Applicants request allowance of these claims.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams in view of Dohrer and further in view of Call (US 4,756,415). The Examiner contends that Williams and Dohrer fail to specifically teach the film for use in encapsulating a battery. The Examiner contends that Call teaches it is known to use shrink wrap materials to encapsulate a battery. Applicants respectfully disagree with the Examiner's contention. As set forth above, Williams in view of Dohrer does not teach the multilayer film claimed by Applicants, and Call does not cure the deficiencies of these references. Specifically, Call discloses a shrink wrap enclosure for battery storage and transport to prevent the corrosive effects of battery leakage or spillage. The enclosure comprises the shrink wrap material, a battery terminal and vent cover protection pads. Call makes a brief statement that shrink film may be polyethylene but does not teach or suggest the multilayered film claimed by Applicants. Furthermore, Call does not teach or suggest modifying the multilayer film of Williams to arrive at Applicants' claimed multilayered film. Applicants respectfully request withdrawal of the rejections of claims 18 and 19.

In view of the foregoing remarks, Applicants respectfully request withdrawal of the rejections and allowance of claims 1-8 and 10-21. Should the Examiner believe that a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Attorney Docket No. AVERP2544USA.

Respectfully submitted,

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